

CNSS LIBRARY

FBI / [unclear]
[unclear]
[unclear]

TRANSMIT VIA: Airtel

CLASSIFICATION: _____

DATE: 3/17/83

FROM: *[Signature]* Director, FBI

TO: All SACs
All LEGATS

ATTORNEY GENERAL'S GUIDELINES FOR THE
CONDUCT OF DOMESTIC SECURITY/TERRORISM
INVESTIGATIONS, EFFECTIVE MARCH 21, 1983

Reference teletype to all SACs dated 3/7/83, captioned
as above.

Enclosed for each recipient is a copy of the new Attorney
General's Guidelines governing the conduct of FBI investigations
concerning domestic security/terrorism (DS/T) matters. These
Guidelines will become effective on 3/21/83.

With the exception of some modifications noted below,
instructions regarding implementation of the provisions governing
general crimes investigations and racketeering enterprise investi-
gations set forth in Memorandum to All Special Agents dated
12/30/80 are still applicable. Some of the more significant
features of the new rules governing domestic security/terrorism
investigations are described below.

These Guidelines change the way the FBI conducts inves-
tigations and administratively manages DS/T cases. These cases
are now governed by the rules set forth in Part III of the Guide-
lines and are considered another form of criminal intelligence
investigation. As the Guidelines indicate, criminal intelligence
investigations differ from general crimes investigations in several
important respects. As a general rule, an investigation of a
completed criminal act is normally confined to determining who
committed that act and with securing evidence to establish the
elements of the particular offense. An intelligence investigation
of an ongoing criminal enterprise, on the other hand, must deter-
mine the size and composition of the group involved, its geographic
dimensions, its past acts and intended criminal goals, and its
capacity for harm. While a standard criminal investigation

Airtel to All SACs and LEGATs
Re: Attorney General's Guidelines for the
Conduct of Domestic Security/Terrorism
Investigations, Effective March 21, 1983

terminates with the decision to prosecute or not to prosecute, the investigation of a criminal enterprise does not necessarily end, even though one or more of the participants may have been prosecuted. Thus the new Guidelines reaffirm the need for criminal intelligence in domestic security/terrorism matters and treat these investigations as an integral part of the FBI's general law enforcement responsibilities.

Criminal Enterprise Concept

The new rules governing domestic security/terrorism investigations employ the "criminal enterprise" concepts so successfully used in organized crime cases. This allows the FBI to cross organizational lines in a domestic security/terrorism investigation without regard to what a particular group or element of an organization might call itself. It should enable the Bureau to deal more effectively with groups who knowingly act in furtherance of the criminal objectives of the enterprise. Thus persons who provide safehouses, money, weapons or otherwise knowingly support the criminal activities of the terrorist enterprise can be investigated as part of the same criminal enterprise. It will no longer be necessary to open a separate investigation of such groups with a separate justification.

The enterprise concept will also permit the FBI to focus its investigation upon violent factions of a larger group, without investigating the entire group. The new approach recognizes that terrorist groups today have a fluid membership and often lack organizational structure, yet function as a single enterprise directed toward a common goal.

Preliminary Inquiries

Preliminary investigations and limited investigations have been deleted from the Domestic Security/Terrorism Guidelines. There is only one form of domestic security/terrorism investigation under the current Guidelines. You must rely on the authority under general crimes preliminary inquiries to meet investigative needs in domestic security/terrorism matters.

A preliminary general crimes inquiry is more limited in scope and purpose than the preliminary investigation formerly authorized under the Domestic Security Guidelines. However, they

Airtel to All SACs and LEGATs
Re: Attorney General's Guidelines for the
Conduct of Domestic Security/Terrorism
Investigations, Effective March 21, 1983

permit greater latitude in the use of investigative techniques particularly where informants are involved. The only investigative techniques that are unavailable during a preliminary inquiry are those which require probable cause: mail covers, search and seizure and electronic surveillance. At the same time, the Attorney General's Guidelines caution that Agents consider whether the information sought could be obtained by means which involve less intrusion on the subject's privacy. As an example, if a discreet inquiry to local law enforcement officials would produce the necessary information, it might be inappropriate to question neighbors.

Subject to this general guidance on intrusiveness, Agents require no special prior authorization to check FBI files, public records or sources, governmental records, established informants or confidential sources, to interview subjects, complainants or others having knowledge of the facts or to conduct surveillances. Prior authorization of a Supervisory Agent is required before employers or coworkers may be interviewed, pretext interviews are conducted or new informants are developed. Other more intrusive techniques, such as the use of consensual monitoring, may be employed only in compelling circumstances and when other investigative means are not likely to be successful. "Compelling circumstances" are circumstances requiring the use of such techniques to determine the validity of information or allegations concerning possible serious criminal activity such as a threat to life or substantial property interests, the destruction or alteration of evidence, or the serious impairment or hindrance of an investigation.

Preliminary inquiries may be authorized by field supervisors, but in all situations, the inquiry shall be completed within 90 days after initiation of the first investigative step, unless authorized by the Bureau. Subsequent authorizations for extensions are limited to 30-day periods and will be based upon a written request from the field division including a statement of reasons justifying further "inquiry" when there is no "reasonable indication" which would allow a full investigation.

For administrative purposes, all preliminary inquiries under the General Crimes Section of the Guidelines that relate to domestic security/terrorism matters will be reported in the 100 classification.

Airtel to All SACs and LEGATs
Re: Attorney General's Guidelines for the
Conduct of Domestic Security/Terrorism
Investigations, Effective March 21, 1983

Domestic Security/Terrorism Investigations

A domestic security/terrorism investigation may be initiated when "facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals wholly or in part through activities that involve force or violence and a violation of the criminal laws of the United States." This parallels the standard now followed in racketeering enterprise investigations and should eliminate any perceptions that actual or imminent commission of a violent crime is a prerequisite to investigation. It is sufficient if the facts or circumstances indicate that the enterprise seeks to accomplish its political or social objectives through violence. The standard requires a valid factual predicate and law enforcement purpose, but it is substantially lower than the "probable cause" threshold required for arrest.

Separate domestic security/terrorism investigations will not be authorized for individual members of the criminal enterprise. The investigation of the enterprise itself will encompass the activities of the individual participants. For administrative purposes, a series of sub-files on individual members can be utilized.

Full investigations will be authorized by the Director or the Assistant Director, Criminal Investigative Division, based upon a written communication from the requesting field division setting forth the facts or circumstances reasonably indicating the existence of an enterprise, the goals of which were described above. This authorization will be valid for 180 days. Subsequently, an investigation may be continued for 180-day periods based upon renewed authorization from FBIHQ obtained prior to the expiration of the previously authorized extension.

In order to comply with the Department of Justice (DOJ) requirements, the office of origin will submit a letterhead memorandum (LHM) along with the first request for an extension of the full DS/T investigation. Thereafter, an annual LHM reflecting progress in the "enterprise" investigation will be prepared for dissemination to DOJ on all pending investigations.

FBIHQ will be advised of the closing of all full DS/T investigations as well as any preliminary inquiries which were reported to the Bureau.

Continuation of Investigations

There has been a tendency in the past to close domestic security investigations and terminate informant coverage when the violent activity of the group has been dormant for a period of

Airtel to All SACs and LEGATs
Re: Attorney General's Guidelines for the
Conduct of Domestic Security/Terrorism
Investigations, Effective March 21, 1983

time. If the organization became active again, it was often a difficult and time-consuming process to redevelop informant coverage. The new Guidelines permit the FBI to monitor organizations who may be temporarily inactive, but whose prior record or stated objectives indicate a need for continuing federal interest, so long as the threshold standard for investigation is satisfied. Under those circumstances, the investigation may be placed in a pending status but informant coverage can be maintained to the extent necessary to determine whether there is any change in the criminal objectives of the enterprise.

Advocacy of Crime

There has been some confusion about whether advocacy of crime, without specific conduct, can provide the bases for an investigation. The new Guidelines make it clear that advocacy of crime is not immune from investigation. When statements advocate criminal activity or indicate an apparent intent to engage in crime, particularly crimes of violence, an investigation may be warranted unless it is apparent, from the circumstances or the context in which the statements are made, that there is no prospect of harm.

The point to remember with respect to implementation of the advocacy provision is that the basis for initiating an inquiry or investigation is not the advocacy itself, but rather that the statement of advocacy taken in context presents a credible threat of harm. To the extent possible, all such matters should be resolved through preliminary inquiries. During the implementation stage of these Guidelines, any further inquiries based on statements of advocacy should be reported promptly to FBI Headquarters (Terrorism Section) for review.

Publicly Available Information

The new Guidelines explicitly authorize the collection of publicly available information consistent with the Privacy Act. FBI Headquarters is currently consulting with the DOJ concerning interpretation of this provision in an effort to ascertain the bounds of this collection effort and to determine administrative procedures for processing the information collected. All field offices are instructed to limit their collection of publicly available information to cases under preliminary inquiry or full investigation in accordance with the Guidelines. Further instructions with regards to implementation of this provision will be forthcoming.

Airtel to All SACs and LEGATs
Re: Attorney General's Guidelines for the
Conduct of Domestic Security/Terrorism
Investigations, Effective March 21, 1983

As is noted above, some minor modifications have been made in those portions of the Guidelines governing general crimes investigations and racketeering enterprise investigations. You should be particularly alert to the following changes:

- (1) Preliminary inquiries have been extended from 60 to 90 days;
- (2) a dissemination provision has been added in Part V which governs the dissemination of information acquired from any investigation conducted pursuant to the Guidelines;
- (3) cooperation with Secret Service -- in some cases where investigations have been closed which meet the threshold requirements for a preliminary inquiry or full investigation, the FBI may conduct an inquiry or investigation at the request of the Secret Service consistent with the investigative priorities of the field office, See Part VI;
- (4) narcotics violations have been added to the list of offenses that may trigger a racketeering enterprise investigation;
- (5) undisclosed participation in the activities of organizations -- this provision does not grant authority to influence rights protected by the First Amendment. It is intended to be a safeguard to insure that our investigations do not unintentionally influence the exercise of those rights, See IV B(3);
- (6) specific reporting rules concerning the use of consensual electronic monitoring techniques have been deleted. Until notified otherwise, you should continue to follow current reporting requirements as set forth in U. S. Attorney's Manual 9-7.013.